

Page



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/328,893	06/09/1999	JORG SCHABERNACK	Q54532	7430

7590 01/02/2004

SUGHRUE MION ZINN MACPEAK & SEAS PLLC
2100 PENNSYLVANIA AVENUE N W
WASHINGTON, DC 200373213

EXAMINER

DUONG, OANH L

ART UNIT	PAPER NUMBER
----------	--------------

2155

DATE MAILED: 01/02/2004

25

Please find below and/or attached an Office communication concerning this application or proceeding.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

MAILED

JAN 02 2004

Technology Center 2100

**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 25

Application Number: 09/328,893
Filing Date: June 09, 1999
Appellant(s): SCHABERNACK ET AL.

George F. Lehnigk
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed October 31, 2003

(1) *Real Party in Interest*

A statement identifying the real party in interest is contained in the brief.

(2) *Related Appeals and Interferences*

A statement identifying the related appeals and interferences which will directly affect or be directly affected by or have a bearing on the decision in the pending appeal is contained in the brief.

(3) *Status of Claims*

The statement of the status of the claims contained in the brief is correct.

(4) *Status of Amendments After Final*

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) *Summary of Invention*

The summary of invention contained in the brief is correct.

(6) *Issues*

The appellant's statement of the issues in the brief is correct.

(7) *Grouping of Claims*

The rejection of claims 1-10 stand or fall together because appellant's brief does not include a statement that this grouping of claims does not stand or fall together and reasons in support thereof. See 37 CFR 1.192(c)(7).

(8) *Claims Appealed*

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) *Prior Art of Record*

5189733	Bennett et al.	2-1993
6,339,587	Mishra	1-2002
5,941,978	Finni	8-1999

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 1-10 are rejected under 35 U.S.C. 103. This rejection is set forth in prior Office Action, Paper No. 18.

1. Claims 1-3 and 5-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett et al (Bennett) (US 5,189,733) in view of Mishra (US 6,339,587).

Regarding claim 1, Bennett discloses a method comprising steps of checking in response to a request for access to one of a plurality of managed objects whether this requested object is stored in the memory of a network element (see col. 7 lines 6-9); if this requested object is not stored in the memory, checking whether there is sufficient memory space to write this object into the memory (see col. 7 lines 9-13); if there is no sufficient memory space, swapping at least one of the stored objects out of the memory to a database according to at least one predeterminable criterion (see col. 7 lines 13-18); and reading the requested object from the database and writing it into the memory (see col. 7 lines 18-24). Bennett does not explicitly disclose network element connected to a Synchronous Digital Hierarchy network. However, Mishra discloses a management system, similar to that of Bennett (see cols. 5-6 lines 52-65) wherein Mishra discloses

Art Unit: 2155

the process of connecting network management system to SDH network (see col. 1 lines 7-14). Therefore, It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Benett in view of Mishra because it would allow data transmission to and from memory management system and SDH network in a natural form for computer data without requiring any conversion. This would have improved data processing in term of time and cost.

Regarding claim 2, Bennett discloses the objects which are accessed most frequently remain in the memory (see col. 7 lines 16-18).

Regarding claim 3, Bennett discloses a predeterminable number of recently accessed objects remain in the memory (see abstract).

Regarding claim 5, Bennett discloses the predeterminable criterion is a length of time which indicates how long each of the objects may remain stored in the memory (see col. 2 lines 12-18).

Regarding claim 6, Bennett discloses the predeterminable criterion is a maximum number which indicates how many objects may remain stored in the memory (see col. 4 lines 3-6).

Regarding claim 7, Bennett discloses a network element comprising a controller (see fig. 1B) for managing the network element using managed objects, a memory (see col. 4 line 9) connected to the controller, and a database connected to the controller, wherein the controller, in response to requests, manages the network element by accessing the memory and using the objects stored therein (see fig. 9), wherein in response to a request for access to one of the managed objects, the controller checks

Art Unit: 2155

whether this requested object is stored in the memory (see col. 7 lines 6-9), wherein, if this requested object is not stored in the memory, the controller checks whether there is sufficient memory space to write this object into the memory (see col. 7 lines 9-13), wherein, if there is no sufficient memory space, the controller causes at least one of the stored objects to be swapped out of the memory to a database according to at least one predeterminable criterion (see col. 7 lines 13-18), and wherein the controller reads the requested object from the database and writes it into the memory (see col. 7 lines 18-24). Bennett does not explicitly disclose network element connected to a Synchronous Digital Hierarchy network. However, Mishra discloses a management system, similar to that of Bennett (see cols. 5-6 lines 52-65) wherein Mishra discloses the process of connecting network management system to SDH network (see col. 1 lines 7-14). Therefore, It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Benett in view of Mishra because it would allow data transmission to and from memory management system and SDH network in a natural form for computer data without requiring any conversion. This would have improved data processing in term of time and cost.

Regarding claim 8, Bennett discloses the memory is a semiconductor memory, and wherein the database is implemented on a nonvolatile mass storage, particularly on a hard disk (see col. 7 lines 20-24).

Regarding claim 9, Bennett discloses a network element comprising a controller (see fig. 1B) for managing the network element using managed objects, a memory (see col. 4 line 9) connected to the controller, and a database connected to the controller,

Art Unit: 2155

wherein the controller, in response to requests, manages the network element by accessing the memory and using the objects stored therein (see fig. 9), wherein in response to a request for access to one of the managed objects, the controller checks whether this requested object is stored in the memory (see col. 7 lines 6-9), wherein, if this requested object is not stored in the memory, the controller checks whether there is sufficient memory space to write this object into the memory (see col. 7 lines 9-13), wherein, if there is no sufficient memory space, the controller causes at least one of the stored objects to be swapped out of the memory to a database according to at least one predeterminable criterion (see col. 7 lines 13-18), and wherein the controller reads the requested object from the database and writes it into the memory (see col. 7 lines 18-24). Bennett does not explicitly disclose network element connected to a Synchronous Digital Hierarchy network. However, Mishra discloses a management system, similar to that of Bennett (see cols. 5-6 lines 52-65) wherein Mishra discloses the process of connecting network management system to SDH network (see col. 1 lines 7-14). Therefore, It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Bennett in view of Mishra because it would allow data transmission to and from memory management system and SDH network in a natural form for computer data without requiring any conversion. This would have improved data processing in term of time and cost.

Regarding claim 10, Bennett does not teach the network element as claimed. However, Mishra teaches at least one of crossconnects, add-drop multiplexers, and line multiplexer (see col. 6 lines 7-10). Therefore, it would have been obvious to have used

the element in Bennett as taught by Mishra because it would add or extract signals as required so as to satisfy the request.

2. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Bennett in view of Mishra in further view of Finni (US 5,941,978).

Regarding claim 4, the combination of teachings of Bennett and Mishra does not teach CMISE filter as claimed. However, Finni teaches the predeterminable criterion is a filter function, particularly a CMISE filter function, which indicates which objects are to remain stored in the memory (see col. 1 lines 36-63 and col. 4 lines 14-44). Therefore, it would have been obvious to modify the CMISE filter function in the combination of teachings Bennett and Mishra as taught by Finni because such filter function would allow to select a sub-group from among the managed object instances, to which a CMIP operation is applied. Thus, a considerably smaller memory is used and memory management in the network element has been improved. (Finni, col. 3 lines 55-56).

(11) Response to Argument

Examiner has given the broadest reasonable interpretation of the managed object (read as an object) in view of the specification of the invention (see page 2 lines 20-30) since the managed object has not been specifically defined in the claimed invention.

In response to applicants' argument that neither the Bennett reference nor the Mishra reference teaches or suggests "the managed object". Examiner has given the broadest reasonable interpretation of the managed object (read as an object) in view of

Art Unit: 2155

the specification of the invention (see page 2 lines 20-30) since the managed object has not been specifically defined in the claimed invention.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (e.g., managed objects have properties such as "Attribute", "Notification", "Action", and "Name Binding"; "[m]anaged objects are images of physical or virtual components of the network which describe the static and dynamic properties of the respective component"; "[a] managed object may represent a physical entity, a network service, or an abstraction of a resource that exists independently of its use in management" "[m]anagement is provided by accessing managed objects, which contain all relevant data ") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

In response to Applicants' argument that the reasoning for rejecting Applicants' argument is defective. Examiner asserts that the reasoning for rejecting Applicants' argument is not defective. Examiner has given the broadest reasonable interpretation of the managed object (read as an object) in view of the specification of the invention (see page 2 lines 20-30) since the managed object has not been specifically defined in the claimed invention.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention

Art Unit: 2155

where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, Bennett does not explicitly disclose network element connected to a Synchronous Digital Hierarchy network. However, Mishra discloses a management system, similar to that of Bennett (see cols. 5-6 lines 52-65) wherein Mishra discloses the process of connecting network management system to SDH network (see col. 1 lines 7-14). Therefore, It would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify Bennett in view of Mishra because it would allow data transmission to and from memory management system and SDH network in a natural form for computer data without requiring any conversion. This would have improved data processing in term of time and cost.

In response to applicants' argument that Bennett's computer 100 is not a network element. Examiner respectfully disagrees because a computer may be a network element.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Conferees



LARRY D. DONAGHUE
PRIMARY EXAMINER



ZARNI MAUNG
PRIMARY EXAMINER



HOSAIN ALAM
SUPERVISORY PATENT EXAMINER